

§ 161.15

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such care is provided to former uniformed service members who are entitled to military retired pay and the dependents of those former members. Eligibility for the benefits described in Table 13 to part 161 begins on the date of award of the MOH but no earlier than October 30, 2000.

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TABLE 13 TO PART 161—BENEFITS FOR MOH RECIPIENTS AND DEPENDENTS

	CHC	DC	C	MWR	E
Self	1	2	Yes	Yes	Yes.
Lawful Spouse	1	2	Yes	Yes	Yes.
Children, Unmarried, Under 21 Years:					
Legitimate, adopted, stepchild, illegitimate child of record of female member, or illegitimate child of male member whose paternity has been judicially determined or voluntarily acknowledged.	1	2	3	4	4.
Ward	1, 5	2, 5	5	5	5.
Pre-adoptive Child	1, 6	2, 6	6	6	6.
Foster Child	No	No	3	3	3.
Children, Unmarried, 21 Years and Over.	1, 7	2, 7	3, 7	7	7.
Father, Mother, Father-in-Law, Mother-in-Law, Stepparent, or Parent by Adoption.	No	2, 3	3	4	4.

Notes:

1. Yes, if the sponsor is a MOH recipient and is not otherwise entitled to medical care as of or after October 30, 2000 pursuant to section 706 of Public Law 106–398 and:

a. Is not entitled to Medicare Part A hospital insurance through the SSA or
b. Is entitled to Medicare Part A hospital insurance and enrolled in Medicare Part B medical insurance or qualified as an exception in accordance with section 706 of Public Law 111–84.

2. Yes, if the sponsor is a MOH recipient and is not otherwise entitled to medical care as of or after October 30, 2000 pursuant to section 706 of Public Law 106–398.

3. Yes, if a member of a household maintained by or for an authorized sponsor and dependent on that sponsor for over 50 percent of his or her support. Children residing in the household of a separated spouse continue to be eligible for commissary privileges until there is a final divorce decree. In the case of a divorce, children residing in the household of a former spouse ARE NOT considered to be members of the authorized sponsor's household for commissary privileges. Exception: Children who reside with a former spouse meeting requirements for commissary privileges based on 20 years of marriage during a period the member or retired member performed 20 years of service, or the dependent is entitled to privileges as a result of sponsor abuse pursuant to 10 U.S.C. 1408.

4. Yes, if dependent on an authorized sponsor for over 50 percent of his or her support or children of a sponsor residing in the household of a former spouse (20–20–20 or 10–20–10).

5. Yes, if, for determination of dependency made on or after July 1, 1994, placed in the legal custody of the member or former member as a result of a court of competent jurisdiction in the United States (or possession of the United States) for a period of at least 12 consecutive months; and:

a. Is dependent on the member for over 50 percent support.
b. Resides with the member or former member unless separated by the necessity of military service or to receive institutional care as a result of a disability or incapacitation or under such other circumstances as the administering Secretary may, by regulation, prescribe.

6. Yes, if, for determinations of dependency made on or after October 5, 1994, placed in the home of the member or former member by a placement agency (recognized by the Secretary of Defense) or by another source authorized by State or local law to provide adoption placement, in anticipation of the legal adoption by the member or former member.

7. Yes, if the child:
a. Has not attained the age of 23, is enrolled in a full-time course of study at an institution of higher learning approved by the administering Secretary, and is dependent on the former member for over 50 percent of the child's support or
b. Is incapable of self-support because of a mental or physical incapacity that existed before age 21, or occurred before the age of 23 while a full-time student, while a dependent of a member or former member, and is dependent on the member or former member for over 50 percent of the child's support.

§ 161.15 Benefits for Disabled American Veterans (DAV).

(a) This section describes the benefits for DAVs rated as 100 percent disabled or 100 percent unemployable by the VA and their eligible dependents. Neither

DAVs nor their eligible dependents receive CHC or DC benefits from the DoD based on their affiliation. Honorably discharged veterans rated by the VA as 100 percent disabled or 100 percent unemployable from a uniformed service-

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connected injury or disease and certified by VA, and their dependents, are eligible for benefits as shown in Table 14 to part 161.

TABLE 14 TO PART 161—BENEFITS FOR 100 PERCENT DAVS AND DEPENDENTS

	CHC	DC	C	MWR	E
Self	No	No	Yes	Yes	Yes.
Lawful Spouse	No	No	Yes	Yes	Yes.
Children, Unmarried, Under 21 Years:					
Legitimate, adopt- ed, stepchild, il- legitimate child of record of fe- male member, or illegitimate child of male member whose paternity has been judicially determined or voluntarily ac- knowledgeed.	No	No	1	2	2.
Pre-adoptive Child	No	No	4	4	4.
Children, Unmarried, 21 Years and Over.	No	No	1, 5	5	5.
Father, Mother, Father- in-Law, Mother-in- Law, Stepparent, or Parent-by-Adoption.	No	No	1	2	2.

Notes:

1. Yes, if a member of a household maintained by or for an authorized sponsor and dependent on that sponsor for over 50 percent of his or her support. Children residing in the household of a separated spouse continue to be eligible for commissary privileges until there is a final divorce decree. In the case of a divorce, children residing in the household of a former spouse ARE NOT considered to be members of the authorized sponsor's household for commissary privileges. Exception: Children who reside with a former spouse meeting requirements for commissary privileges based on 20 years of marriage during a period the member or retired member performed 20 years of service, or the dependent is entitled to privileges as a result of sponsor abuse pursuant to 10 U.S.C. 1408.

2. Yes, if dependent on an authorized sponsor for over 50 percent of his or her support or children of a sponsor residing in the household of a former spouse (20–20–20 or 10–20–10).

3. Yes, if, for determination of dependency made on or after July 1, 1994, placed in the legal custody of the member or former member as a result of a court of competent jurisdiction in the United States (or possession of the United States) for a period of at least 12 consecutive months; and:

a. Is dependent on the member for over 50 percent support.

b. Resides with the member or former member unless separated by the necessity of military service or to receive institutional care as a result of a disability or incapacitation or under such other circumstances as the administering Secretary may, by regulation, prescribe.

4. Yes, if, for determinations of dependency made on or after October 5, 1994, placed in the home of the member or former member by a placement agency (recognized by the Secretary of Defense) or by another source authorized by State or local law to provide adoption placement, in anticipation of the legal adoption by the member or former member.

5. Yes, if the child:

a. Has not attained the age of 23, is enrolled in a full-time course of study at an institution of higher learning approved by the administering Secretary, and is dependent on the former member for over 50 percent of the child's support or

b. Is incapable of self-support because of a mental or physical incapacity that existed before age 21, or occurred before the age of 23 while a full-time student, while a dependent of a member or former member, and is dependent on the member or former member for over 50 percent of the child's support.

§ 161.16 Benefits for transitional health care members and dependents.

This section shows the benefits for THC members and their eligible dependents. THC (formerly the TAMP) was instituted in section 502 of Public Law 101-510, "Department of Defense Appropriations Bill Fiscal Year 1991" effective October 1, 1990. Section 706 of Public Law 108-375, "National Defense Authorization Act of for Fiscal Year 2005" made the THC program permanent and made the medical eligibility

180 days for all eligible uniformed services members. Section 651 of Public Law 110-181 extended 2 years' commissary and exchange benefits to THC members. Section 734 of Public Law 110-417, "National Defense Authorization Act for Fiscal Year 2009" extended THC benefits to uniformed service members separating from active duty who agree to become members of the SelRes of the Ready Reserve of a reserve component. Uniformed service members separated as uncharacterized